

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff

v.

FIDEL RODRIGUEZ,

Defendant.

Case No. 3:20-CR-00006-ART-CLB
ORDER DENYING COMPASSIONATE
RELEASE

(ECF Nos. 83, 103, 108, 113, 116)

Defendant Fidel Rodriguez moves for compassionate release under the First Step Act. 18 U.S.C. § 3582(c)(1)(A). The Government opposes the motion on the basis that Rodriguez has not shown extraordinary and compelling reasons to warrant a reduction. The Court denies Rodriguez's motion.

I. Factual and Procedural Background

In November 2020, Rodriguez entered a binding guilty plea for one count of Hobbs Act robbery, 18 U.S.C. § 1951, and one count of use of a firearm in relation to a crime of violence, 18 U.S.C. § 924(c)(1)(A)(ii), after robbing three convenience stores while carrying an unloaded handgun in his pocket. (*See* ECF No. 49.) Rodriguez was twenty years old when he committed the robberies. (ECF No. 83 at 4.)

Rodriguez's behavior at the robberies—shaking the hand of one clerk, telling another that he was hungry, drinking beer in a parking lot while seemingly waiting to be apprehended, and slamming his head against the police car when he was apprehended—suggests that Rodriguez was in the midst of a mental-health problem during the robberies. (*Id.*) The Pre-Sentence Report (PSR) presented to the sentencing judge discussed Rodriguez's mental and emotional health, past substance use, and mental-health diagnoses. (PSR ¶¶ 49-51.)

1 Rodriguez has provided an expert declaration and supplement from psychiatrist
2 Dr. Avak Howsepian discussing his possible mental health issues. (ECF Nos. 60,
3 62, 63, 103-2.) Dr. Howsepian concluded that adequately addressing Rodriguez's
4 mental health issues "requires multimodal, comprehensive, consistent, focused,
5 and flexible mental health treatment in the community." (ECF No. 103-2 at 8.)
6 Dr. Howsepian has never evaluated Rodriguez in person, but he has reviewed
7 Rodriguez's medical records and spoken to members of his family. (*Id.* at 3-4.)

8 Rordriguez pled guilty through a binding plea, (ECF No. 36), which, once
9 accepted by the Court, required it to impose the sentence agreed to by the parties.
10 See Fed. R. Crim. P. 11(c)(1)(C). Under the binding plea agreement, the parties
11 agreed that Rodriguez would receive a twelve-month prison term for the robbery
12 charge (Count 1) followed by a consecutive 84-month sentence for brandishing a
13 firearm (Count 2). The brandishing charge (Count 2) carried a seven-year
14 mandatory minimum sentence to be imposed consecutively to any other
15 sentence. See 18 U.S.C. 924(c)(1)(A)(ii). The Court, at that time the Honorable J.
16 Jones, accepted the binding plea and imposed the agreed-upon sentence. (ECF
17 No. 52.)

18 Rodriguez filed for habeas relief under 28 U.S.C. § 2255, alleging ineffective
19 assistance of counsel from Rodriguez's federal public defender for failing to
20 litigate an Equal Protection defense, failing to investigate Rodriguez's mental
21 illness, and failing to provide a zealous defense. (ECF No. 60.) After ordering the
22 federal public defender to provide a response to Rodriguez's allegations, (*see* ECF
23 Nos. 75, 76-1), the previous Court denied Rodriguez's habeas petition. (ECF No.
24 92.) The Ninth Circuit then denied Rodriguez a certificate of appealability after
25 determining that he failed to show that the previous Court had denied him a
26 constitutional right. (ECF No. 97.)

27 In 2023, Rodriguez moved for compassionate release under the First Step
28 Act. (ECF No. 83.) A year after that, while Rodriguez's motion for compassionate

1 release was pending, the case was transferred to this Court. (See ECF No. 98.)

2 This Court held a hearing on April 24, 2025, after which it instructed the
3 Government to produce updated records from the Bureau of Prisons, including
4 the release plan for Defendant. (ECF No. 107.) These records indicated that
5 Defendant's projected release for home confinement is June 14, 2026, and his
6 projected final release is in December 2026. (See ECF No. 115.)

7 While in prison, Rodriguez has taken advantage of the limited educational
8 programming available to him, including tutoring other inmates to prepare for
9 their GED examinations. (See ECF No. 112-2 at 2.) He has also maintained
10 contact with his supportive family. (See ECF No. 83 at 16.) Rodriguez has had
11 few disciplinary incidents besides one charge of assaulting another inmate
12 without serious injury. (See ECF No. 115 at 78.)

13 **II. Standard of Review**

14 Federal district courts generally "may not modify a term of imprisonment
15 once it has been imposed." 18 U.S.C. § 3582(c); see *Dillon v. United States*, 560
16 U.S. 817, 824–25 (2010). As "an exception in rare cases," however, courts may
17 apply the First Step Act's 2018 amendments to Section 3582(c) to reduce a
18 sentence. See *United States v. Etzel*, 466 F. Supp. 3d 1135, 1137 (D. Or. 2020).

19 A defendant seeking a sentence reduction under the First Step Act must
20 first exhaust administrative remedies. 18 U.S.C. § 3582(c)(1)(A)(i). Once
21 administrative remedies are exhausted, a district court may reduce a sentence if
22 it finds that extraordinary and compelling reasons warrant a reduction, that a
23 reduction coheres with applicable policy statements issued by the Sentencing
24 Commission, and that the factors set forth in 18 U.S.C. § 3553(a) weigh in favor
25 of the requested sentence reduction. *United States v. Wright*, 46 F.4th 938, 945
26 (9th Cir. 2022) (internal citations and formatting removed). A district court "may
27 deny compassionate release if a defendant fails to satisfy any of these grounds."
28 *Id.*

The Sentencing Commission's policy statement, U.S.S.G. § 1B1.13, provides the following examples of "extraordinary and compelling reasons:"

(1) Medical Circumstances of the Defendant.

(A) The defendant is suffering from a terminal illness (i.e., a serious and advanced illness with an end-of-life trajectory). A specific prognosis of life expectancy (i.e., a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), end-stage organ disease, and advanced dementia.

(B) The defendant is--

(i) suffering from a serious physical or medical condition,

(ii) suffering from a serious functional or cognitive impairment, or

(iii) experiencing deteriorating physical or mental health because of the aging process,

that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

(C) The defendant is suffering from a medical condition that requires long-term or specialized medical care that is not being provided and without which the defendant is at risk of serious deterioration in health or death.

(* * * *)

(5) Other Reasons.—The defendant presents any other circumstance or combination of circumstances that, when considered by themselves or together with any of the reasons described in paragraphs (1) through (4), are similar in gravity to those described in paragraphs (1) through (4).

(6) Unusually Long Sentence.—If a defendant received an unusually long sentence and has served at least 10 years of the term of imprisonment, a change in the law (other than an amendment to the Guidelines Manual that has not been made retroactive) may be considered in determining whether the defendant presents an extraordinary and compelling reason, but only where such change would produce a gross disparity between the sentence being served and the sentence likely to be imposed at the time the motion is filed, and after full consideration of the defendant's individualized circumstances.

This policy statement may inform a district court's discretion when

1 considering § 3582(c)(1)(A) motions. *United States v. Aruda*, 993 F.3d 797, 802
2 (9th Cir. 2021).

3 **III. Analysis**

4 Because Rodriguez has exhausted administrative remedies, (see ECF No.
5 83 at 14), the Court considers whether extraordinary or compelling reasons
6 justify reducing his sentence.

7 **A. Rodriguez’s Mental Health Treatment in Prison**

8 Rodriguez argues that the substandard treatment of his mental health in
9 prison and the possibility of better mental health treatment outside of prison
10 justify reducing his sentence. The Government responds that the extraordinary
11 and compelling medical reasons contemplated by 18 U.S.C. § 3582(c) address
12 situations where a prisoner’s health condition renders that prisoner vulnerable
13 to irreparable harm or unable to care for oneself in prison.

14 To qualify under the policy statement, Rodriguez must show that his
15 medical condition diminishes his ability “to provide self-care” in prison and that
16 he is not expected to recover from such a condition, or that his condition “requires
17 long-term or specialized medical care that is not being provided and without
18 which the defendant is at risk of serious deterioration in health or death.” See
19 U.S.S.G. § 1B1.13(b)(1)(B), (C); see *United States v. Miller*, No. 15-CR-00471-CRB-
20 1, 2021 WL 2711728, at *4 (N.D. Cal. July 1, 2021); *United States v. Muhammad*,
21 No. CR20-156, 2022 WL 4109102, *2 (W.D. Wash. Sept. 8, 2022); *United States*
22 *v. Prieto*, No. 3:19-cr-142, 2022 WL 17718422, at *5 (W.D. Ky. Dec. 15, 2022);
23 *United States v. Roane*, No. 3:20-cr-158, 2022 WL 16722363 (W.D.N.C. Nov. 4,
24 2022); *United States v. Bonner*, No. CR19-226, 2022 WL 4483104, at *2 (W.D. Pa.
25 Sept. 27, 2022); *United States v. McClain*, No. 3:15-cr-5, 2022 WL 6238685, at *2
26 n. 2 (S.D. Ind. Sept. 14, 2022). Claims about a federal prison’s negligent provision
27 of health care or negligent care may be addressed through the Federal Tort Claim
28 Act or the *Bivens* cause of action, not compassionate release. See *Marquez v.*

1 *Rodriguez*, 2021 WL 2826075, at *11 (S.D. Cal. July 6, 2021).

2 Rodriguez has provided evidence from a psychiatrist who has not evaluated
3 him that he may or may not be receiving appropriate psychiatric treatment while
4 in BOP custody. He has provided declarations that his mental health is
5 deteriorating while in prison and that he would be better cared for outside of
6 prison with his supportive family and access to individualized, private care. While
7 sympathetic, the Court finds that Rodriguez has not shown that the BOP's
8 provision of medical care renders him subject to irreparable harm or unable to
9 care for himself in prison.

10 **B. Disproportionate Sentencing Policies**

11 Rodriguez argues that this Court may “unstack” consecutive sentences
12 imposed by 18 U.S.C. § 924(c) under the compassionate release provisions of the
13 First Step Act after finding that such consecutive sentences are so
14 disproportionate that they constitute an “extraordinary and compelling” reason
15 to reduce a sentence.

16 Unstacking consecutive sentences based on stacked § 924(c) convictions is
17 an appropriate use of the First Step Act. *See United States v. Wells*, No. 2:14-CR-
18 00280-JCM-GWF, 2022 WL 1720987, at *3 n.4 (D. Nev. May 27, 2022) (reducing
19 112-year sentence for string of armed robberies to ten years); *see also*
20 U.S.S.G. § 1B1.13(b)(6).

21 The circumstances presented by Rodriguez's case meaningfully differ from
22 other cases in this district where courts have unstacked 924(c) convictions that
23 resulted in extraordinarily long prison terms. *See United States v. Jordan*, No.
24 2:13-cr-0221-APG-CWH, 2021 WL 3612400, *2 (D. Nev. Aug. 13, 2021) (reducing
25 60-year sentence based on three convictions under § 924(c) to eight years in
26 prison); *United States v. Williams*, No. 2:13-CR-00221-APG-CWH, 2021 WL
27 3604835, at *2 (D. Nev. Aug. 13, 2021) (reducing 121-year sentence for string of
28 armed robberies to eight years of custody and an additional five years of home

1 detention). Rodriguez's underlying offense consisted of three armed robberies,
2 and Rodriguez pled to one count of interference with commerce by robbery and
3 one count of use of a firearm in relation to a crime of violence for an eight-year
4 sentence. (See ECF No. 37.) Rodriguez's eight-year sentence included a
5 mandatory seven-year term that the court was required to impose consecutive to
6 any other term imposed. Though lengthy, this sentence is not extraordinary.
7 Further, records confirm that Rodriguez is scheduled for home confinement after
8 about six-and-a-half years of confinement. (See ECF No. 115 at 88.) His sentence
9 is not so disproportionate as to justify a sentence reduction under the same
10 rationale as *Wells*, *Jordan*, or *Williams*.

11 Rodriguez next argues that a Department of Justice policy guideline from
12 2022 advising against using mandatory minimums weighs in favor of reducing
13 his sentence. At the hearing on this motion, the Government provided notice that
14 the policy memo referenced by Rodriguez had been rescinded and replaced with
15 a policy guideline instructing federal prosecutors to pursue the most serious,
16 readily provable offense, including those with mandatory minimum sentences.
17 (See ECF No. 107 at 7–8.) This has effectively mooted Rodriguez's argument.

18 **C. Faulty Sentencing and Discriminatory Prosecution**

19 Rodriguez argues that his lower sentencing and the alleged discriminatory
20 prosecution that led to his conviction justify reducing his sentence.

21 Rodriguez argues that the sentencing court did not adequately consider his
22 mental health history and diagnosis of bipolar disorder. The previous Court had
23 access to this information in the PSR, which discussed Rodriguez's bipolar
24 disorder and inability to get psychiatric medication or attend treatment after he
25 lost his insurance.

26 Rodriguez also argues that the fact that the white get-away driver in the
27 robbery was not charged for the same crime weighs in favor of reducing his
28 sentence. This is the same basis for the equal protection claim Rodriguez argued

1 in his habeas petition. (See ECF Nos. 60, 92.) In rejecting this claim on habeas
2 review, the previous Court observed that Rodriguez's accomplice undertook
3 significantly different conduct—driving a car versus brandishing a firearm—that
4 prevented it from finding that racial prejudice motivated the charging decision.
5 (See ECF No. 92 at 11–13.) The Ninth Circuit held Rodriguez failed to make a
6 substantial showing that the previous Court's disposition of this claim denied
7 him a constitutional right. (See ECF No. 97.) This Court similarly lacks a basis to
8 reduce Rodriguez's sentence based on the prosecution's decision not to charge
9 his accomplice.

10 Rodriguez next argues that the sentencing disparity between his robbery
11 charge and a brandishing offense weighs in favor of compassionate release, that
12 his conduct during the armed robberies was non-violent because the firearm was
13 unloaded, that he only robbed \$120 from the three stores, that he was only twenty
14 years old at the time, and that he had only one prior misdemeanor before the
15 offense all weigh in favor of reducing his sentence. These factors, considered
16 alongside Rodriguez's other arguments, do not rise to the level of extraordinary
17 and compelling reasons to reduce his sentence.

18 **IV. Conclusion**

19 The Court grants Defendant's motion to supplement the record. (ECF No.
20 108.)

21 The Court denies Defendant's motion for Compassionate Release (ECF No.
22 83).

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1 In light of the sensitive medical and personally identifying information
2 present in the parties' exhibits, the Court grants the pending motions to seal (ECF
3 Nos. 103, 113, 116).

4 Dated this 29th day of July, 2025.

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6 ANNE R. TRAUM
7 UNITED STATES DISTRICT JUDGE
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